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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/538,808	02/21/2006	Gunnar Nordstrom	1505-1081	5679
466	7590	10/10/2007		
YOUNG & THOMPSON 745 SOUTH 23RD STREET 2ND FLOOR ARLINGTON, VA 22202			EXAMINER LOWE, MICHAEL S	
			ART UNIT 3652	PAPER NUMBER
			MAIL DATE 10/10/2007	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

## Office Action Summary

**Application No.**

10/538,808

**Applicant(s)**

NORDSTROM, GUNNAR

**Examiner**

M. Scott Lowe

**Art Unit**

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-10 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 13 June 2005 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date 3/21/07, 6/13/05.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_.

### ***Drawings***

Figure 1 should be designated by a legend such as --Prior Art-- because only that which is old is illustrated. See MPEP § 608.02(g). Corrected drawings in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the feed direction, wedge-shaped cross section, must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for

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consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

The drawings are objected to because figures 1 & 9 show different embodiments in the same figure. Any changes must be updated in the detailed description as well as the short description of drawings section. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required

corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

The drawings are objected to as failing to comply with 37 CFR 1.84(p)(4) because reference character "6" has been used to designate both "an axis" and "the container" (see page 5 of specification). Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

### ***Specification***

The disclosure is objected to because of the following informalities:

It is unclear how the frame is being rotated or reciprocated. For instance if applicant intends for figures 8 & 9 to rotate, it is unclear of how it could be done. If the container is shaped non-circular to match figure 8, then it will either not rotate or there would need to be a gap outside the frame. In figure 9, the frame and arms appear to support the entire container, which would make it unlikely that it would rotate without

rollers or something else not described. If applicant does not intend for the device to rotate in certain figures then it needs to be explained more fully how and in which situations the device is rotating without adding new matter.

Appropriate correction is required.

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 8,10 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Re claim 8, it is not clear what is referred to by "the device" in line 3. For sake of examination it is assumed applicant meant part of the output device such as the arm is driven.

Re claim 10, it is unclear what is meant by "it" in line 2. For sake of examination it is assumed applicant meant "said output device".

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

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Claims 1-5,8,10 are rejected under 35 U.S.C. 102(b) as being anticipated by Rebucci (US 4,150,701).

Re claim 1, Rebucci teaches an output device for a container (generally 60,90) which comprises a bottom (generally 40) and a surrounding wall, comprising a hub (80) and at least two arms (82,84) fixed to the hub (80), characterized in that each arm is designed with

- at least one outer section designed and arranged to at use being capable of essentially preventing material from being brought towards the wall of the container, and
- at least one inner section connected to the outer section, designed and arranged to at use being capable of bringing the material essentially in the direction of feed for the device, at which the at least two arms present essentially concave surfaces facing the direction of feed.

Re claim 2, Rebucci teaches each arm (82,84) is continuously bent (stays bent and is bent along length).

Re claim 3, Rebucci teaches the arms (82,84) extend essentially (to the wall of the container (generally 60,90).

Re claim 4, Rebucci teaches the arms designed with a wedge-shaped cross section, where the wedge-shape tapers (see figure 3) contrary to the direction of feed.

Re claim 5, Rebucci teaches a frame (generally 90 or 40) arranged adjacent to the outer ends of the arms.

Re claim 8, Rebucci teaches a driving device capable of driving the device with a rotating movement.

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Re claim 10, Rebucci teaches the device is intended to be used in a container with at least one principally gap-shaped discharge opening (generally 42) located between the hub and the outer ends of the arms.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 6,7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rebucci (US 4,150,701).

Re claim 6, Rebucci does not state whether the frame (generally 90 or 40) is fixed to the arms but it would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified Rebucci to have the frame fixed to the arms in order to avoid rubbing the arms against the frame as the arms rotate and in order to fix the frame to avoid it getting out of place.

Re claim 7, Rebucci does not state whether the frame (generally 90 or 40) is fixed to the container but it would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified Rebucci to have the frame fixed to the container in order to avoid rubbing the container against the frame as the arms rotate and in order to fix the frame to avoid it getting out of place.



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Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over Rebucci (US 4,150,701) in view of Cantenot (US 4,099,633).

Re claim 9, Rebucci does not teach a driving device capable of driving the device with a reciprocating movement. Cantenot teaches a driving device capable of driving the device with a reciprocating movement in order to sweep effectively (column 1). It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified Rebucci by the general teaching of Cantenot to have a driving device capable of driving the device with a reciprocating movement in order to sweep effectively.

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Peterson (US 3,011,658) teaches a rotating frame.

Illes (US 4,130,225) teaches a similar device.

Burke (US 4,635,408) teaches a similar device with connected straight segments.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to M. Scott Lowe whose telephone number is (571) 272-6929. The examiner can normally be reached on 6:30am-4:30pm M-Th.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Saul Rodriguez can be reached on (571)272-7097. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

*Michael Lowe 10/4/07*

Michael Lowe  
Patent Examiner AU 3652